

Litigation Department

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Police Departments Should Review Their Policies and Procedures to Protect Prisoners

Prisoner Dies In Custody. Obviously no city or town wants to awaken to that headline printed in its local paper, but unfortunately it happens. And although these stories may grab a greater share of the media spotlight recently, such tragedies are not new. They have always been a part of the criminal justice system and will unfortunately remain a part of it. Municipalities and police departments simply cannot eliminate all custodial deaths among their jail populations. They can, however, take steps to minimize the risk and, consequently, mitigate their exposure to liability if and when they face that dreaded headline.

It is important to understand that not all “custodial deaths” are the result of criminal or even negligent acts. Some custodial deaths are the result of entirely natural causes. Nevertheless, whenever a person dies in custody, a police department and its municipality will face questions about its policies and procedures and whether the death could have been prevented. Those questions may be posed by prosecutors, internal investigators, the victim’s family and legal representatives, or the press. And even if there is no basis for criminal charges, the police department and municipality may face civil lawsuits. In order to most effectively answer questions and defend itself, a municipality and its police department should ensure that they have implemented appropriate and effective policies and procedures, and that their police officers and employees are adequately trained.

Implementing proper policies and procedures and providing necessary staff training should be a priority for all police departments. Proactive steps should be taken before a tragedy occurs. While it is impossible to eliminate all custodial deaths, proper policies and procedures and effective training will undoubtedly reduce the likelihood of such tragedies and likely mitigate liability. Accordingly, all police departments and municipalities should carefully review their policies and procedures to ensure that they appropriately safeguard prisoners’ health and well-being. While internal “self-assessments” are a good start, police departments and municipalities should also consider investing in outside, independent reviews. Independent reviews will often provide fresh perspectives and cut through “it’s always been done this way” explanations for existing policies.

Although every police department is different and there is no “one-size-fits-all” set of policies and procedures, there are a number of best practices that every police department should consider and address:

- **Minimize duration of pre-arraignment detention.** Officers should be trained to use appropriate discretion in arrests and use of desk appearance tickets or pre-arraignment bail, especially for low-level offenses.
- **Timely processing upon arrest.** Prisoners should be processed and fingerprinted in an expeditious fashion to ensure timely analysis of bail factors.
- **Prompt completion of accusatory instruments.** Officers should be trained to assist prosecutors in completing the necessary accusatory instrument to avoid unnecessary delays in arraignments.
- **Satisfactory jail conditions.** Jails should have humane conditions, which is particularly important for overnight prisoners.
- **Effective supervision and prisoner inspections.** Prisoner inspections should be required at specific intervals, which should be correlated with an inmate's needs and condition. Inspections should be in-person and not simply by way of a video feed. Inspections should also be documented.
- **Appropriate medical care and follow-up treatment.** Officers and civilian employees should be trained to seek appropriate professional assistance for prisoners who display medical conditions.
- **Timely and accurate recordkeeping.** Officers and civilian employees should be trained to keep accurate and detailed records about prisoners' conditions and should be required to prepare records contemporaneously with inspections.

Incorporating these best practices should assist any police department trying to protect the health and well-being of its prisoners and thereby reduce the risk of custodial deaths. Carefully reviewing and revising policies and procedures are good first steps to avoid awakening to *Prisoner Dies In Custody*.

For more information concerning the matters discussed in this publication, please contact the author, **Michael H. Bauscher** (212-238-8785, bauscher@clm.com), or **G. Michael Bellinger** (212-238-8665, bellinger@clm.com), or your regular Carter Ledyard attorney.

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